

REMARKS

Claims 1-14, 16 and 19 are amended as to form.

Claims 17 and 18 are amended to recite methods. Support for claims 17 and 18 may be found generally throughout the specification, particularly at specification page 9, line 1 to page 10, line 7.

Claims 1-19 remain pending in the application.

Responsive to the preliminary determination of lack of unity set forth in the outstanding Official Action, applicants hereby provisionally elect Group I, claims 1-12, 16 and 19, drawn to a biochip, with traverse.

Responsive to the election of species requirement, applicants hereby provisionally elect the phosphorylated nucleic acid with a polyG spacer as the biopolymer (e.g. claims 4 and 19), with traverse. It is believed that claims 1-4, 7-12, 16 and 19 are readable on the elected species.

The reasons for traverse follow.

The Official Action fails to satisfy the requirements of PCT Rule 13.2. Contrary to the statements made in the Official action, BELLEZA et al. does not anticipate claim 1. Accordingly, it is entirely improper for the Patent Office to conclude that the claims lack "any special technical feature".

In BELLEZA et al., the lipase enzyme does not carry any free phosphate group $OP(O)(OH)_2$, as recited in claim 1. Moreover, the lipase of BELLEZA is not immobilized by an iono-

covalent bond on the surface of the support, as recited in claim 1. Rather, BELLEZA et al. disclose lipase reversibly adsorbed on this surface (see the last two paragraphs of page 8740). Thus, BELLEZA et al. do not support the preliminary determination of lack of unity.

Moreover, Groups I, II and III are actually linked by a single common inventive concept. That is, the method of Group II leads necessarily to the formation of the biochips of Group I, and the biochips of Group I cannot be obtained by a method other than the method of Group II. The biochips of Group I are required by the methods of Group III. Accordingly, the Groups I, II, III share the same special technical feature: the biochip of claim 1.

Furthermore, in applying the same legal standard with similar claims, the International Search Authority did not determine the unity of invention as lacking. Thus, the Patent Office has the benefit of the search report, but fails to explain why a different legal conclusion was reached..

With respect to the election of species requirement, applicants respectfully submit that claim 1 is generic and therefore shares the same technical feature as the different biopolymer species.

In light of the above discussion, it is believed to be apparent that the lack of unity determination and election of

species requirement set forth in the outstanding Office Action is improper and should be withdrawn.

A favorable action on the merits of all the pending claims is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Robert Madsen, Reg. No. 58,543
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573

RM/mjr